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VIA FACSIMILE

Hon. Colleen McMahon
 Daniel Patrick Moynihan
 United States Courthouse
 500 Pearl St., Room 640
 New York, NY 10007

August 5, 2008

MEMO ENDORSED

8/7/08

The Court accept ~~the~~'s Plaintiff's
 submission as his Reply to deft's
 motion, No more submissions.

Colleen McMahon

Dear Judge McMahon:

We are counsel for defendants Ebert & Associates and Steven Ebert, Esq. ("Ebert") and submit this correspondence in response to the letter of Joseph Neiman, Esq., dated August 5, 2008, on behalf of plaintiff Christian Stokes ("August 5th letter").¹

In the first instance, Mr. Neiman's August 5th letter should be disregarded as an unauthorized sur-reply. Pursuant to this Court's Individual Practice Rules, section 2(D), "The Court does not accept 'letter motions' unless that procedure has been authorized in advance." We are not aware that Mr. Neiman has obtained such permission to supplement the fully briefed motions.

Moreover, the August 5th letter is inaccurate. It states that "All of the defendants in the above-mentioned matter, accept [sic] for Ebert & Associates and Steven Ebert have taken the position that because plaintiff signed the subject Contract, plaintiff is barred from claiming any type of inducement fraud, etc." Inasmuch as Ebert has incorporated by reference the arguments of its co-defendants, Mr. Neiman's statement with respect to Ebert's argument on the fraud point is not accurate. Ebert did not advance such an argument in its papers - not because it in any way concedes to plaintiff's fraud allegations - but because the absence of any allegations of fraud against Ebert vitiated the need for Ebert to disprove plaintiff's fraud allegations against its co-defendants.

¹ Per Your Honor's law clerk, Mr. O'Neil, this response is being sent to Chambers via facsimile.

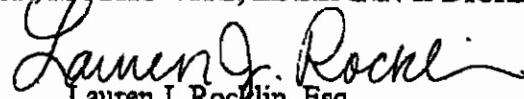
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As such, it is respectfully requested that this Court disregard plaintiff's August 5th letter and grant Ebert's motion to dismiss the complaint, in its entirety, pursuant to the Federal Rules of Civil Procedure Rule 12(b)(6) or, alternatively, Rule 56.

Respectfully submitted,

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP


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cc: VIA FACSIMILE

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